

- Group III: Claims 6-7, drawn to a constrained helical peptide, classified in class 530, subclass 350+.
- Group IV: Claims 10, 11, 12, 14,15, drawn to a compound comprising a constrained helical peptide and methods of use, classified in class 530, subclass 324+.
- Group V: Claim 13, drawn to an antibody, classified in class 530, subclass 387.9.
- Group VI: Claims 14-15, drawn to a method for treating or preventing HIV, classified in class 514, subclass 2+.
- Group VII: Claim 16, drawn to a vaccine, classified in class 424, subclass 184.1+.

The Examiner has further required, for elected Group II, a species election of a compound from Formula (1), (6), (11), or (16) and a consensus or homolog sequence set forth in Figures 16A-16G. Applicants respectfully traverse the restriction/election of species requirement in that the Examiner chose to disregard Applicants originally elected species, that of the compound shown on page 142, lines 1-2 of the specification, an election which fell within the definition of Formula (1) of Claim 4. By overly restricting the Applicants choices to those which are defined within Figures 16A-16G, the Examiner has unduly limited the species which could constitute a proper response under this Supplemental Election/Restriction Requirement.

The Examiner states that Claims 4, 10, and 14 are generic. Upon examination and determination of allowability of the elected species of any of the generic claims of the application, a subsequent examination of additional species is required to determine the allowability of the whole of Applicants invention. While acknowledging that a proper restriction requirement would not affect the right of Applicants eventually having each of the

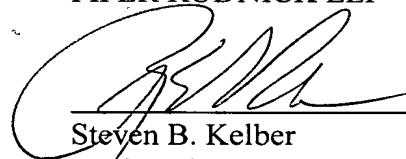
claims examined in the form the Applicant considers to best define his invention, the Federal Circuit also made it clear that, if "...a single claim is required to be divided up and presented in several applications, that claim would never be considered on its merits. The totality of the resulting fragmentary claims would not necessarily be the equivalent of the original claim." (In re Weber, 580 F.2D 455, 458; 198 USPQ 328 (CCPA 1978)) Thus, the Court has recognized the negative effect on Applicants rights to have their claim examined on the merits when that single claim is divided and examined piece-meal. Accordingly, upon determination of allowability of the elected species, Applicants assert that the remaining species of the claims under examination should also be fully examined.

Applicants submit that the application is now in condition for continued examination on the merits. Early notification of such action is earnestly solicited.

If any points remain in issue which the Examiner feels may be best resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

PIPER RUDNICK LLP



Steven B. Kelber
Registration No. 30,073
Attorney of Record

Perry E. Van Over
Registration No. 42,197

Feb 3, 2003
Date

1200 Nineteenth Street, N.W.
Washington, D.C. 20036-2412
Telephone No. (202) 861-3900
Facsimile No. (202) 223-2085